THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.453 of 2006

Dated 28-09-2007

Between:
Andhra Bank rep. By its Chief Manager.

..... PETITIONERS

AND

Commissioner of Police & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.453 of 2006

O R D E R:

None appears for the respondents.

This Writ Petition is filed by Andhra Bank, Patamata Branch, Vijayawada seeking a direction to the respondents to remove the movable properties of Sri S.Vishnu Mohan of
M/s. Udaya Tara Chits and Private Limited seized by them by order dated 30-04-2005.

Petitioner, a nationalized bank, had sanctioned a secured over draft of Rs.22.50 lakhs to one Sri S.Vishnu Mohan and a term loan for Rs.3.00 lakhs to M/s. Udayatara Enterprises, a proprietary concern of Sri S.Vishnu Mohan. The mother of the borrower had offered her property at D.No.74-1-23 admeasuring 464 sq. yards situated at M.G.Road, as security for the loan. As the amounts due came to be defaulted the bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act (for short 'the Act') and issued demand notice dated 26-05-2004 under Section 13(2) of the Act calling upon the borrower and the mortgagor to pay Rs.27,01,221.70 as on 30-04-2004 with subsequent interest. As they failed to pay the amounts, the Authorized Officer took possession of the premises and sold the premises on 04-04-2005 by way of public auction, wherein one Sri G.Lakshmi Narayana was declared the highest bidder for Rs.65,01,000/-.

It is stated that the highest bidder has paid the entire sale consideration and the sale was confirmed in his favour. On receiving complaints that Sri Vishnu Mohan had collected several lakhs from the public, did not return the said amounts despite repeated demands and had misutilised it for his own benefit, five cases were registered against him. The first respondent, by order dated 30-04-2005, in

exercise of the powers conferred under Rule 6(1) of A.P.P.D.F.E. Rules, 1999 seized the movable and immovable properties of Sri S.Vishnu Mohan of Udaya Tara Chits and Private Limited. According to the petitioner, after adjusting the sale proceeds towards discharge of the mortgage loan, the balance amount was seized pursuant to the order dated 30-04-2005 and the bank had been asked not to alienate or make payment. It is also stated that the second respondent had directed the first respondent to seize the movable property, seal and maintain them until further orders. Petitioner would contend that, though it had confirmed the sale on 04-04-2005 and the entire sale consideration has been paid by the highest bidder, in view of the order of seizure, and as certain movables were still lying within the sold premises, the petitioner-bank is not in a position to handover vacant possession to the highest bidder. Petitioner would contend that, despite several written representations dated 07-07-2005, 05-08-2005, 18-10-2005 and the legal notice dated 30-10-2005 and their subsequent letter dated 23-11-2005, no action has been taken by the respondents. As such, the petitioner-bank had taken an inventory of various materials and had intimated it to the first respondent, vide letter dated 03-12-2005, despite which no action has been taken.

The casual manner in which such serious issues are being dealt with is undoubtedly a matter of serious concern. No information is forthcoming from the respondents as to what are the constraints which they face in not removing the movables from the property in question. Since the impugned order has been passed in exercise of the statutory power, instead of issuing mandamus to the respondents to remove the movables, I consider it appropriate to direct the respondents to consider the representations of the petitioner-bank and take a decision, in accordance with law, within one month from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. No order as to costs.

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28-09-2007

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